

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTOINE L. SMITH

CIVIL ACTION

v.

ROBERT SHANNON, et al.

NO. 07-0361

ORDER

AND NOW, this 10<sup>th</sup> day of *May*, 2007, upon careful and independent consideration of the pleadings and record herein, and after review of the Report and Recommendation of Thomas J. Rueter, United States Magistrate Judge, it is hereby

**ORDERED**

1. The Report and Recommendation is APPROVED and ADOPTED;
2. The petition for a writ of habeas corpus is DISMISSED without prejudice for failure to exhaust state court remedies; and
3. A certificate of appealability is not granted.

BY THE COURT:

  
HARVEY BARTLE, III, Ch. J.